



Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[\[EPA-R09-OAR-2012-0904\]](#), FRL-9815-3]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Regional Haze Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve in part and disapprove in part revisions to Arizona's State Implementation Plan (SIP) for its regional haze program based on our evaluation of its supplemental submittal dated May 3, 2013. The State's new submittal revises Arizona's SIP that was submitted on February 28, 2011. The new revisions are in response to EPA's proposed rule published in the Federal Register on December 21, 2012. Specifically, we propose to approve Arizona's most recent emissions inventory for 2008, the reasonable progress analysis of coarse mass and fine soils, and aspects of the analyses and determinations of Best Available Retrofit Technology (BART) controls for four sources. These sources are Freeport-McMoRan Incorporated (FMRI) Miami Smelter, American Smelting and Refining Company (ASARCO) Hayden Smelter, Catalyst Paper, and Arizona Electric Power Cooperative (AEP) Apache Generating Station. However, we are proposing to disapprove other revisions to the reasonable progress analysis and some aspects of the revised BART analyses and determinations. We describe in today's action the major elements of the State's new SIP submittal and our assessment in terms of why we are proposing to approve or disapprove these revised elements. Today's action does not address any other parts of Arizona's SIP. Regional haze is caused by emissions of air pollutants from numerous sources located over a broad geographic area. The

Clean Air Act (CAA) requires states to adopt and submit to EPA SIPs that assure reasonable progress toward the national goal of achieving natural visibility conditions by 2064 in 156 national parks and wilderness areas designated as Class I areas.

DATES: Written comments must be received by the designated contact at the address below on or before [**Insert date 30 days from date of publication**].

ADDRESSES: See the General Information section for further instructions on where and how to learn more about this proposed rule and how to submit comments.

FOR FURTHER INFORMATION CONTACT: Gregory Nudd, U.S. EPA, Region 9, Planning Office, Air Division, Air-2, 75 Hawthorne Street, San Francisco, CA 94105. Gregory Nudd can be reached at telephone number (415) 947-4107 and via electronic mail at r9azreg haze@epa.gov.

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- 1) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- 2) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.
- 3) The words *Arizona* and *State* mean the State of Arizona.
- 4) The initials *BART* mean or refer to Best Available Retrofit Technology.
- 5) The term *Class I area* refers to a mandatory Class I Federal area.
- 6) The initials *CBI* mean or refer to Confidential Business Information.

- 7) The words *we*, *us*, *our* or *EPA* mean or refer to the United States Environmental Protection Agency.
- 8) The initials *FIP* mean or refer to Federal Implementation Plan.
- 9) The initials *FLMs* mean or refer to Federal Land Managers.
- 10) The initials *IMPROVE* mean or refer to Interagency Monitoring of Protected Visual Environments monitoring network.
- 11) The initials *LTS* mean or refer to Long-term Strategy.
- 12) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.
- 13) The initials *NH₃* mean or refer to ammonia.
- 14) The initials *NO_x* mean or refer to nitrogen oxides.
- 15) The initials *NM* mean or refer to National Monument.
- 16) The initials *NP* mean or refer to National Park.
- 17) The initials *OAQPS* mean or refer to the Office of Air Quality Planning and Standards.
- 18) The initials *PM* mean or refer to particulate matter.
- 19) The initials *PM_{2.5}* mean or refer to fine particulate matter with an aerodynamic diameter of less than 2.5 micrometers.
- 20) The initials *PM₁₀* mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers (coarse particulate matter).
- 21) The initials *PSD* mean or refer to Prevention of Significant Deterioration.
- 22) The initials *PTE* mean or refer to potential to emit.
- 23) The initials *RH* mean or refer to regional haze.
- 24) The initials *RHR* mean or refer to the Regional Haze Rule, originally promulgated in 1999 and codified at 40 CFR 51.301-309.
- 25) The initials *RP* mean or refer to Reasonable Progress.

- 26) The initials *RPG* or *RPGs* mean or refer to Reasonable Progress Goal(s).
- 27) The initials *SIP* mean or refer to State Implementation Plan.
- 28) The initials *SNCR* mean or refer to selective non-catalytic reduction.
- 29) The initials *SO₂* mean or refer to sulfur dioxide.
- 30) The initials *SRPMIC* mean or refer to Salt River Pima-Maricopa Indian Community.
- 31) The initials *tpy* mean tons per year.
- 32) The initials *TSD* mean or refer to Technical Support Document.
- 33) The initials *VOC* mean or refer to volatile organic compounds.
- 34) The initials *WEP* mean or refer to Weighted Emissions Potential.
- 35) The initials *WRAP* mean or refer to the Western Regional Air Partnership.

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I. General Information

A. Docket

The proposed action relies on documents, information and data that are listed in the index on <http://www.regulations.gov> under docket number EPA-R09-OAR-2012-0904. Although listed in the index, some information is not publicly available (e.g., Confidential Business Information (CBI)). Certain other material, such as copyrighted material, is publicly available only in hard copy form. Publicly available docket materials are available either electronically at

<http://www.regulations.gov> or in hard copy at the Planning Office of the Air Division, AIR-2, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. EPA requests that you contact the individual listed in the FOR FURTHER INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 9-5:00 PST, excluding Federal holidays.

B. Instructions for Submitting Comments to EPA

Written comments must be received at the address below on or before [**Insert date 30 days from date of publication**]. Submit your comments, identified by Docket ID No. EPA-R09-OAR-2012-0904, by one of the following methods:

- Federal Rulemaking portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: r9azreg haze@epa.gov
- Fax: 415-947-3579 (Attention: Gregory Nudd)
- Mail, Hand Delivery or Courier: Gregory Nudd, EPA Region 9, Air Division (AIR-2), 75 Hawthorne Street, San Francisco, California 94105. Hand and courier deliveries are only accepted Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

EPA's policy is to include all comments received in the public docket without change.

We may make comments available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or that is otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your

comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov>, we will include your e-mail address as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption, and be free of any defects or viruses.

C. Submitting Confidential Business Information

Do not submit CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim as CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. We will not disclose information so marked except in accordance with procedures set forth in 40 CFR part 2.

D. Tips for Preparing Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (e.g., subject heading, Federal Register date and page number).
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the identified comment period deadline.

II. Overview of Proposed Actions

EPA proposes to approve in part and disapprove in part a Regional Haze (RH) SIP revision submitted by ADEQ on May 3, 2013, which revises certain elements of its RH SIP that we proposed to disapprove on December 21, 2012.¹ ADEQ previously submitted its RH SIP to EPA Region 9 on February 28, 2011, to meet the requirements of Section 308 of the Regional Haze Rule (RHR). EPA Region 9 and ADEQ have engaged in a collaborative effort to clarify and resolve some of the issues in our proposal of December 21, 2012, that resulted in ADEQ's SIP revision of May 3, 2013. In this notice, we propose to approve Arizona's emissions inventory for 2008, its reasonable progress analysis for coarse mass and fine soils, and certain aspects of the analyses and determinations of BART controls for four sources. These sources are the FMMI Miami Smelter, ASARCO Hayden Smelter, Catalyst Paper, and AEPCO Apache Generating Station. In summary, we propose to approve a revised set of BART-eligible units for the Miami and Hayden smelters; the State's finding that a BART analysis is not required for Catalyst Paper; and a clarification in the application of the emissions limit to Apache Unit 1.

¹ Proposed rule titled "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Regional Haze and Visibility Impacts of Transport, Ozone and Fine Particulates" published in the Federal Register on December 21, 2012 (77 FR 75704).

However, we are proposing to disapprove ADEQ's new determination that the Miami Smelter is exempt from a BART analysis for NO_x controls, and that the Hayden Smelter is exempt from a BART analysis for PM₁₀. Despite its finding that the Hayden Smelter is exempt from a BART analysis for PM₁₀, ADEQ nonetheless performed such an analysis, and we are proposing to approve ADEQ's determination that BART for PM₁₀ is no additional controls. We are also proposing to approve a correction to "Table 6.1 - Baseline Conditions for 20% Worst Days" in the Arizona's RH SIP and are making a corresponding correction to "Table 4—Visibility Calculations for Arizona Class I Areas" in our December 21, 2012, notice (77 FR 75704) in which the baseline for Saguaro East & West were reversed. All other elements of the SIP addressed in our proposal dated December 21, 2012, remain unaffected. We will address both our proposal of December 21, 2012, and today's proposed action in our final rule due in July 2013. For background information on visibility impairment and the Regional Haze Rule's SIP requirements, please refer to those sections in our proposed rule dated December 21, 2012.

III. Summary of State and EPA Actions on Regional Haze

A. EPA's Schedule to act on Arizona's RH SIP

EPA received a notice of intent to sue in January 2011 stating that we had not met the statutory deadline for promulgating Regional Haze Federal Implementation Plans (FIPs) and/or approving Regional Haze SIPs for dozens of states, including Arizona. This notice was followed by a lawsuit filed by several advocacy groups (Plaintiffs) in August 2011.² In order to resolve this lawsuit and avoid litigation, EPA entered into a Consent Decree with the Plaintiffs, which sets deadlines for action for all of the states covered by the lawsuit, including Arizona. This decree was entered and later amended by the Federal District Court for the District of Columbia

² National Parks Conservation Association v. Jackson (D.D.C. Case 1:11-cv-01548).

over the opposition of Arizona.³ Under the terms of the Consent Decree, as amended, EPA is currently subject to three sets of deadlines for taking action on Arizona’s Regional Haze SIP as listed in Table 1.⁴

TABLE 1—CONSENT DECREE DEADLINES FOR EPA TO ACT ON ARIZONA’S RH SIP

EPA Actions		Proposed Rule	Final Rule
Phase 1	BART determinations for Apache, Cholla and Coronado	July 2, 2012 ¹	November 15, 2012 ²
Phase 2	All remaining elements of Arizona’s RH SIP	December 8, 2012 ³	July 15, 2013
Phase 3	FIP for disapproved elements of Arizona’s RH SIP (if required)	September 6, 2013	February 6, 2014

¹ Published in the Federal Register on July 20, 2012, 77 FR 42834.

² Published in the Federal Register on December 5, 2012, 77 FR 72512.

³ Published in the Federal Register on December 21, 2012, 77 FR 75704.

B. History of State Submittals and EPA Actions

Since four of Arizona’s twelve mandatory Class I Federal areas are on the Colorado Plateau, the State had the option of submitting a Regional Haze SIP under section 309 of the Regional Haze Rule. A SIP that is approved by EPA as meeting all of the requirements of section 309 is “deemed to comply with the requirements for reasonable progress with respect to the 16 Class I areas [on the Colorado Plateau] for the period from approval of the plan through 2018.”⁵ When these regulations were first promulgated, 309 submissions were due no later than December 31, 2003. Accordingly, the ADEQ submitted to EPA on December 23, 2003, a 309 SIP for Arizona’s four Class I areas on the Colorado Plateau. ADEQ submitted a revision to its 309 SIP, consisting of rules on emissions trading and smoke management, and a correction to the State’s regional haze statutes, on December 31, 2004. EPA approved the smoke management

³ National Parks Conservation Association v. Jackson (D.D.C. Case 1:11-cv-01548), Memorandum Order and Opinion (May 25, 2012) and Minute Order (July 2, 2012).

⁴ National Parks Conservation Association v. Jackson (D.D.C. Case 1:11-cv-01548) Minute Order (November 13, 2012).

⁵ 40 CFR 51.309(a).

rules submitted as part of the 2004 revisions,⁶ but did not propose or take final action on any other portion of the 309 SIP at that time.

In response to an adverse court decision,⁷ EPA revised 40 CFR 51.309 on October 13, 2006, making a number of substantive changes and requiring states to submit revised 309 SIPs by December 17, 2007.⁸ Subsequently, ADEQ sent a letter to EPA dated December 14, 2008, acknowledging that it had not submitted a SIP revision to address the requirements of 309(d)(4) related to stationary sources and 309(g), which governs reasonable progress requirements for Arizona's eight mandatory Class I areas outside of the Colorado Plateau.⁹ EPA proposed on February 5, 2013,¹⁰ to disapprove Arizona's 309 SIP revisions except for the smoke management rules that we had previously approved.

EPA made a finding on January 15, 2009, that 37 states, including Arizona, had failed to make all or part of the required SIP submissions to address regional haze.¹¹ Specifically, EPA found that Arizona failed to submit the plan elements required by 40 CFR 309(d)(4) and (g). EPA sent a letter to ADEQ on January 14, 2009, notifying the state of this failure to submit a complete SIP. ADEQ later decided to submit a SIP under section 308, instead of section 309.

ADEQ adopted and transmitted its Regional Haze SIP under Section 308 of the Regional Haze Rule to EPA Region 9 in a letter dated February 28, 2011. The plan was determined complete by operation of law on August 28, 2011.¹² The SIP was properly noticed by the State and available for public comment for 30 days prior to a public hearing held in Phoenix, Arizona, on December 2, 2010. Arizona included in its SIP responses to written comments from EPA

⁶ 71 FR 28270 and 72 FR 25973.

⁷ Center for Energy and Economic Development v. EPA, 398 F.3d 653 (D.C. Circuit 2005).

⁸ 71 FR 60612.

⁹ Letter from Stephen A. Owens, ADEQ, to Wayne Natri, EPA (December 14, 2008).

¹⁰ 78 FR 8083.

¹¹ 74 FR 2392.

¹² CAA section 110(k)(1)(B).

Region 9, the National Park Service, the US Forest Service, and other stakeholders including regulated industries and environmental organizations. The Arizona RH SIP is available to review in the docket for this proposed rule.¹³

As indicated in Table 1, the first phase of EPA's action on Arizona's RH SIP addressed three BART sources. The final rule for this phase (a partial approval and partial disapproval of the State's plan and a partial FIP) was signed by the Administrator on November 15, 2012, and published in the Federal Register on December 5, 2012. The emission limits on the three sources will improve visibility by reducing NO_x emissions by about 22,700 tons per year. In the second phase of our action, we proposed on December 21, 2012, to approve in part and disapprove in part the remainder of Arizona's regional haze plan. ADEQ submitted a supplemental SIP on May 3, 2013, to correct certain deficiencies identified in that proposal. Today's action supersedes that proposal with respect to those elements of the SIP addressed in the State's supplemental SIP that are discussed herein. In our final rule due for signature by July 15, 2013, we will act on the proposed approvals and proposed disapprovals in the notices published on December 21, 2012, and today. A proposed FIP due for signature by September 6, 2013, will address all the disapproved elements of the State's plan from Phase 2 (See Table 1).

IV. EPA's Evaluation of Arizona's Revised RH SIP

A. Emissions Inventory for 2008

In our proposed rule of December 21, 2012, we noted that the State failed to provide the most recent emissions inventory available as required by the RHR in 40 CFR 51.308(d)(4)(v). ADEQ provided a 2008 emissions inventory in its submittal dated May 3, 2013, to fulfill this requirement. The 2008 inventory is described below in the context of the 2002 and 2018

¹³“Arizona State Implementation Plan, Regional Haze Under Section 308 Of the Federal Regional Haze Rule,” February 28, 2011.

inventories discussed in our proposal of December 21, 2012, and is followed by our assessment.

EPA proposes to find that the State has met this requirement of the RHR.

ADEQ's Submittal: The emissions inventories for 2002, 2008 and 2018 are summarized by source and pollutant in Tables 2 and 3. The emissions inventories consist of estimated annual emissions in tons per year (tpy) for ten source categories and six pollutants. The source categories are: point sources, anthropogenic fire, wildfire, biogenic, area sources, on-road mobile, off-road mobile, road dust, fugitive dust and windblown dust. The haze producing pollutants are: NO_x, SO₂, VOC, PM_{2.5}, PM_{coarse}¹⁴ and NH₃. The 2018 emissions estimates do not include the substantial reductions in NO_x emissions from point sources required under EPA's Phase 1 BART FIP.¹⁵

TABLE 2— EMISSIONS INVENTORY FOR ARIZONA REGIONAL HAZE POLLUTANTS BY SOURCE CATEGORY FOR 2002, 2008 AND 2018 (TONS PER YEAR)¹⁶

Category	SO ₂ [tpy]			NO _x [tpy]			VOC [tpy]		
	2002	2008	2018	2002	2008	2018	2002	2008	2018
Point Sources	94,716	79,015	67,429	69,968	60,759	68,748	5,464	3,489	9,401
Anthropogenic Fire	190	n/a	181	725	n/a	676	855	n/a	745
Wildfire	4,369	607	4,369	16,493	3,513	16,494	36,377	4,989	36,381
Biogenic	0	0	0	27,664	15,256	27,664	1,576,698	686,255	1,576,698
Area Source	2,677	3,678	3,408	9,049	39,403	12,783	102,918	100,256	170,902
On-road Mobile	2,715	812	762	178,009	137,555	53,508	110,424	54,589	52,872
Off-road Mobile	4,223	673	546	66,414	33,857	43,249	56,901	42,297	36,033
Total	108,890	84,784	76,695	368,322	290,343	223,122	1,889,637	890,158	1,883,032

¹⁴ These are particles smaller than 10 microns, but larger than 2.5 microns.

¹⁵ 77 FR 72512 (December 5, 2012).

¹⁶ Emissions for 2002 and 2018 are from Tables 8.1, 8.2 and 8.8 in the Arizona RH SIP. Emissions for 2008 are from Tables 2, 3 and 5 in the Arizona RH SIP Technical Support Document ("Supplemental TSD") dated May 2, 2013. The "Area Oil and Gas" category listed in these tables is excluded from this summary because the total emissions in this category are very small.

TABLE 3—EMISSIONS INVENTORY FOR ARIZONA REGIONAL HAZE POLLUTANTS BY SOURCE CATEGORY FOR 2002, 2008 AND 2018 (TONS PER YEAR)¹⁷

Category	NH ₃ [tpy]			PM _{2.5} [tpy]			PM _{coarse} [tpy]		
	2002	2008	2018	2002	2008	2018	2002	2008	2018
Point Sources	531	971	729	934	5,127	1,421	8,473	5,260	8,650
Anthropogenic Fire	97		73	1,065	n/a ¹⁸	927	17	n/a	9
Wildfire	3,781	n/a	3,782	61,225	8,019	61,230	10,107	1,692	10,108
Area Source	32,713	34,878	36,248	9,400	15,688	13,727	1,384	2,389	1,766
On-road Mobile	5,035	2,377	7,606	3,344	8,736	2,318	1,004	5,597	1,258
Off-road Mobile ¹⁹	48	40	64	4,758	3,293	3,032		162	
Road and Fugitive Dust		n/a		10,647	26,037	15,796	79,315	141,117	126,766
Windblown Dust	n/a	n/a	n/a	6,422	9,647	6,422	57,796	87,431	57,796
Total	42,205	38,265	48,502	97,795	76,547	104,873	158,096	243,648	206,353

EPA's Assessment: The 2008 inventory supplied by ADEQ was derived from the results of the WestJump2008²⁰ project conducted by the Western Regional Air Partnership (WRAP). The EPA has reviewed the source data and methods underlying ADEQ's 2008 emissions inventory,²¹ which appear to be the most recent and accurate available for the year 2008. While there are a few missing data elements (e.g., anthropogenic fire) in the WRAP's inventory, these omissions do not impact other requirements of the RHR, as the information is available for the base year and future year inventories. The EPA proposes to find that the 2008 inventory is based on the most current and reliable activity data and emissions factors, and is sufficiently accurate and complete to meet the needs of the Regional Haze SIP.

¹⁷ Emissions for 2002 and 2018 are from Tables 8.3-8.7 in the Arizona RH SIP. Emissions for 2008 data are from the Supplemental TSD, Tables 4, 6-9. For the purposes of this analysis, primary organic aerosols, elemental carbon and fine soil are assumed to be in the PM_{2.5} partition. These were combined for ease of comparison with the IMPROVE monitoring data.

¹⁸ The Supplemental TSD combined all fire emissions into "Natural Fire". EPA assumes that the proportions are comparable to the 2002 partition between natural and anthropogenic fire.

¹⁹ The Arizona RH SIP did not include any PM₁₀ emissions directly attributed to off-road vehicles.

²⁰ Arizona RH SIP Supplement, Section 8.6.2. More information about WestJump is available at <http://www.wrapair2.org/WestJumpAQMS.aspx>.

²¹ Supplemental TSD, Table 1.

The total SO₂ and NO_x emissions in 2008 are consistent with what one would expect from the trend indicated by the 2002 and 2018 inventories. For these two pollutants of concern, the trends in point source and mobile source emissions are promising, with NO_x emissions from point sources apparently decreasing faster than expected. We also note that wildfires were less prevalent in 2008 than in 2002. In contrast, the area source category is increasing for both NO_x and SO₂. Much of the surprising increase in 2008 is due to changes in methods. For example, the 2002 and 2018 inventories categorize locomotive emissions as off-road mobile, whereas the 2008 emissions inventory categorizes them as area sources. This particular issue accounts for over 22,000 tpy of NO_x in 2008.²² The apparent steady growth in NO_x and SO₂ emissions from area sources will need more attention in future planning periods as other source categories are controlled and contribute less to visibility impairment. The State should carefully review the assumptions and data underlying the emissions estimates for the area source category in future RH SIP submittals to understand the extent of these sources and properly assess whether they are reasonable to control.

The significant drop in VOC emissions was due to a change in the method for calculating biogenic emissions. This is not an actual change in VOC emissions, but rather a more accurate estimate of biogenic emissions than was previously available. This change in method (along with a coincidental decrease in wildfire activity in 2008) increases the relative importance of anthropogenic VOC emissions compared to natural sources of VOC. The anthropogenic VOC emissions were estimated to be less than 15 percent of the total emissions in 2002. With the new, more accurate method of calculating biogenic emissions, the anthropogenic portion is now estimated to be 22 percent of the total VOC emissions. This new estimate of a higher anthropogenic fraction has the potential to make VOC emissions a more important factor in

²² Supplemental TSD, page 23.

reasonable progress analyses for future planning periods. However, since VOC emissions are still primarily from natural and uncontrollable sources, EPA is not changing our proposal to approve the State's decision to exclude VOC emissions from their reasonable progress analysis for this first planning period.

The emissions inventories for particulate matter remain highly uncertain. This is not surprising, as the emissions are driven, in large part, by three categories that are difficult to accurately calculate: fugitive dust, road dust and windblown dust. There is a great deal of uncertainty in the calculations of these categories. EPA is working closely with the State on this issue to ensure compliance with the PM₁₀ NAAQS in Maricopa and Pinal Counties. Given the current uncertainty in these inventory data for coarse mass and fine soil in Arizona, it is more informative to review the IMPROVE monitoring data for these pollutants. An analysis of the monitoring data²³ shows that the degree of visibility impairment from these compounds is generally stable and not increasing. In conclusion, EPA has reviewed and assessed the 2008 emissions inventory for Arizona and proposes to approve that it meets the requirement in the RHR for the "most recent inventory."

B. Reasonable Progress Goals

In our previous Federal Register notice (77 FR 75727), we proposed to disapprove the State's Reasonable Progress Goals (RPGs) for the worst 20 percent of days. We explained that, since Arizona's RPGs for the worst 20 percent of days provide for a rate of improvement in visibility slower than the rate needed to show attainment of natural conditions by 2064 (i.e., the "uniform rate of progress" or URP), the RHR requires the State to demonstrate why its RPGs are

²³Supplemental TSD, Table 14 and Section III.D.

reasonable and why RPGs consistent with the URP are not reasonable.²⁴ This demonstration must be based on an analysis of four factors: costs of compliance; time necessary for compliance; energy and non-air quality environmental impacts of compliance; and remaining useful life of any potentially affected sources (collectively “the four RP factors”).²⁵ We proposed to find that the State had not conducted an adequate analysis of these four factors to support its determination that it was not reasonable to achieve the URP at any of the State’s Class I areas. Nonetheless, based on our own supplemental analysis, we proposed to approve the State’s finding that it is not reasonable to require additional controls on mobile sources of NO_x, SO₂ or VOCs or on point sources of SO₂ during this planning period. By contrast, we proposed to disapprove the State’s findings with respect to coarse mass and fine soil emissions, point sources of NO_x, and area sources of NO_x and SO₂.

The supplemental regional haze SIP submitted by the State on May 3, 2013, includes a new Chapter 11 (“Reasonable Progress Goal Demonstration”), which supersedes the version of Chapter 11 included in the SIP submitted on February 28, 2011. Sections 11.1 (“Reasonable Progress Requirements”), 11.2 (“The Process for Determining Reasonable Progress”) and 11.3 (“Summary of the Four-Factor Analysis”) of the 2013 version of Chapter 11 are essentially identical to the 2011 version, except that subsection 11.3.3 now includes a four-factor analysis for Phoenix Cement Company’s (PCC) plant near Clarkdale, Arizona. Sections 11.4 (“Affirmative Demonstration of Reasonable Progress”) and 11.5 (“Demonstration of Reasonable Progress Goals for 20% Worst Days”) contain new analyses of trends in monitored visibility conditions, which are set forth in greater detail in a Technical Support Document (“Supplemental TSD”) submitted with the supplemental SIP revision. Section 11.6 (“Affirmative Demonstration

²⁴ 77 FR 75728.

²⁵ 40 CFR 51.308(d)(1)(i)(A); 51.308(d)(1)(ii).

of Reasonable Progress”) summarizes the results of these new analyses and Section 11.7 (“Major Reductions in Mobile Sources Emissions by 2018”) provides an updated summary of reductions in emissions of SO₂, NO_x and VOCs from mobile sources, reflecting actual reductions that occurred between 2002 and 2008. Section 11.8 (“Emission Reductions to with Respect to Out-of-State Class I Areas”) states that: “Based on the demonstration in the preceding chapters showing reasonable progress at Arizona’s Class I areas, ADEQ asserts that the measures contained in the SIP are adequate to achieve reductions necessary to prevent visibility impairment at Class I areas in neighboring states.”²⁶ Sections 11.9 (“Additional Emission Reductions Expected by 2018 due to the Long-Term Strategy”) and 11.10 (“Long-Term Strategy ‘Next Steps’ in Analyzing Major Source Categories”) of the supplement are essentially identical to subsections 11.4.5 and 11.4.6 of the SIP submittal in 2011. Likewise, section 11.11 (“Years to Reach Natural Conditions Based on Reasonable Progress Goals”) is essentially identical to section 11.5 of the submittal in 2011.

Based on the new analyses contained in the supplemental submittal and our own supplemental analysis, we are now proposing to approve the State’s finding that it is not reasonable to require additional controls on sources of coarse mass and fine soil during the first planning period. However, the supplemental SIP did not provide sufficient analysis for EPA to change our proposal with respect to point sources of NO_x or area sources of NO_x and SO₂. Therefore, we are still proposing to disapprove the State’s determinations that it is not reasonable to control point sources and area sources for the stated pollutants. The following is our evaluation of the new analyses provided in Chapter 11 of the State’s supplemental submittal.

²⁶ Arizona RH SIP Supplement, page 97.

1. Coarse Mass and Fine Soil

The EPA is proposing to concur with the State's decision to exclude coarse mass and fine soils from its four-factor reasonable progress analysis for the first planning period. Our concurrence is based on Arizona's supplemental analysis of monitoring data and our own analysis of potential emission sources.

ADEQ's Submittal: Arizona provided in its supplemental submittal an analysis of coarse mass and fine soil based on monitoring data.²⁷ The monitoring data show that visibility impairment from coarse mass and fine soil is increasing in some Class I areas and decreasing in other areas, but is not changing significantly on a statewide basis.²⁸ This indicates, even with statewide population growth, that there was no resulting general increase in impairment from these pollutants. The State also found that IMPROVE monitors located close together showed significant differences in coarse mass and fine soil impairment on the worst 20 percent of days.²⁹ This variation suggests that local sources may contribute significantly to coarse mass and fine soil impairment. In order to investigate the potential contributions of sources close to the Class I areas, ADEQ examined the monitored visibility impairment at Class I areas near large stationary sources of PM₁₀.³⁰ ADEQ found no relationship between an area's proximity to large sources of PM₁₀ and significantly greater levels of visibility impairment due to coarse mass that would explain the observed concentrations statewide. This analysis of the monitoring data implies that there may be another cause of the visibility impairment from coarse mass, since the size and

²⁷ Supplemental TSD, Table 14 and Section III.D.

²⁸ See the "11-year trend for 20% worse coarse matter days," Supplemental TSD, Table 16, Column 1.

²⁹ Supplemental TSD, Table 14 and Section III.D.

³⁰ PM₁₀ includes both the coarse mass partition of particulate matter and the smaller PM_{2.5} partition. As a result, it is a good indicator of possible sources of coarse mass and fine soil impairment. One disadvantage of this approach is that it may over predict the impact of the sources by assuming all of the PM_{2.5} is fine soil, which may not be the case for combustion sources.

proximity of the existing point sources of PM₁₀ do not solely explain the variability in the visibility impairment from these pollutants.

EPA's Assessment: EPA finds that Arizona's analysis of monitoring data for coarse mass and fine soil was conducted in a scientifically valid manner. However, we also find that this analysis alone is insufficient to support Arizona's decision to exclude these pollutants from a complete four-factor analysis. Therefore, we conducted a supplemental analysis, in which we reviewed each of the seven categories of coarse mass and fine soil emission sources to determine if additional controls on these categories may be needed to ensure reasonable progress in this planning period. These categories are: point, area, on-road mobile, off-road mobile, fugitive and road dust, windblown dust, and fire. We find that, since emissions from fire are predominantly from uncontrollable wildfires, this source does not need to be addressed.³¹ Likewise, windblown dust may be excluded to the extent that it is from natural sources. According to the analysis supplied in Arizona's supplemental TSD, the vast majority of emissions from windblown dust on a statewide, annual basis are from uncontrollable, natural sources.³² Therefore, this source category can also be excluded from the reasonable progress analysis for this planning period.

In the case of point sources, Arizona's analysis of the monitoring data indicates that it is not clear whether coarse mass emissions from these sources significantly contribute to visibility impairment at the Class I areas. Given the mixed results among the Class I areas, we are not confident that controls on particular point sources will be effective in reducing visibility impairment. Therefore, we propose to concur with the State's conclusion that point sources should be excluded from this area of the reasonable progress analysis. Mobile sources (on-road

³¹ Arizona RH SIP Supplement Tables 8.3-8.6 provide a breakdown between anthropogenic and natural fire emissions. The State did not break out these subcategories of fire emissions in the 2008 inventory, but the ratio is likely comparable to 2002 and 2018. Also note that Arizona's Enhanced Smoke Management Program is described in detail in Section 12.7.5 of the RH SIP Supplement.

³² Supplemental TSD, Appendix A.

and off-road) comprise 12 percent of the 2008 coarse mass inventory. These sources are already subject to stringent EPA rules limiting particulate matter emissions. The full benefits of these rules will be realized before the end of this planning period.³³ EPA concurs that this category of sources does not need to be considered for additional controls to ensure reasonable progress.

The remaining category, fugitive and road dust, is a significant portion of the inventory, comprising 58 percent of the State's total coarse mass emissions. While there is no clear indication that dust emissions are causing or contributing to visibility impairment at Class I areas, it is important to note that the State is making substantial reductions in these emissions in an effort to ensure compliance with the PM₁₀ NAAQS. EPA has approved into the Arizona SIP various rules adopted by Maricopa and Pinal Counties related to fugitive and road dust, as shown in Table 4. Moreover, Maricopa County (which comprises 60 percent of the State's population) has a State-approved plan,³⁴ currently under EPA review, that makes additional reductions in fugitive and road dust emissions. A similar plan is under development for Pinal County.³⁵ Given, the lack of a clear relationship between dust emissions and observed visibility impairment at Class I areas, EPA proposes to approve ADEQ's determination that it is not reasonable to consider further controls on this source category at this time. However, it will be necessary to more closely examine the potential visibility impacts of fugitive and road dust on Arizona's Class I areas in future planning periods.

³³ See <http://www.epa.gov/otaq/standards/allstandards.html> for a list of EPA vehicle emission and fuel standards.

³⁴ See <http://www.azdeq.gov/environ/air/plan/notmeet.html> for information on the State adoption of the PM₁₀ plan for the Maricopa County and Apache Junction nonattainment area, including links to the plans.

³⁵ EPA finalized a rule on May 31, 2012, designating parts of Pinal County as nonattainment for the PM₁₀ NAAQS (see 77 FR 32024). This designation requires the State to submit a plan to attain the standard. This plan must be submitted within 18 months of the designation. EPA has been providing technical assistance and guidance to the State on the development of this plan.

TABLE 4—RULES TO CONTROL FUGITIVE DUST AND ROAD DUST

Rule Number	Title	Adoption or Amendment Date	FR Publication Date	FR Citation
Maricopa County Air Quality Department				
310	Fugitive Dust From Dust-Generating Operations	01/27/2010	12/15/2010	75 FR 78167
310.01	Fugitive Dust From Non-Traditional Sources of Fugitive Dust	01/27/2010	12/15/2010	75 FR 78167
Pinal County Air Quality Control District				
4-2-020	Fugitive Dust - General	12/04/2002	04/06/2010	75 FR 17307
4-2-030	Fugitive Dust - Definitions	12/04/2002	04/06/2010	75 FR 17307
4-2-040	Standards [Fugitive Dust]	06/29/1993	08/01/2007	72 FR 41896
4-2-050	Monitoring and Records [Fugitive Dust]	06/29/1993	08/01/2007	72 FR 41896
4-4-100	General Provisions	06/03/2009	04/06/2010	75 FR 17307
4-4-110	Definitions	06/03/2009	04/06/2010	75 FR 17307
4-4-120	Objective Standards	06/03/2009	04/06/2010	75 FR 17307
4-4-130	Work Practice Standards	06/03/2009	04/06/2010	75 FR 17307
4-4-140	Recordkeeping and Records Retention	06/03/2009	04/06/2010	75 FR 17307
4-5-150	Applicability	06/03/2009	04/06/2010	75 FR 17307
4-5-160	Residential Parking Control Requirement	06/03/2009	04/06/2010	75 FR 17307
4-5-170	Deferred enforcement date	06/03/2009	04/06/2010	75 FR 17307
4-7-210	Definitions	06/03/2009	04/06/2010	75 FR 17307
4-7-214	General Provisions	06/03/2009	04/06/2010	75 FR 17307
4-7-218	Applicability; Development Activity	06/03/2009	04/06/2010	75 FR 17307
4-7-222	Owner and/or Operator Liability	06/03/2009	04/06/2010	75 FR 17307
4-7-226	Objective Standards; Sites	06/03/2009	04/06/2010	75 FR 17307
4-7-230	Obligatory Work Practices Standards; Sites	06/03/2009	04/06/2010	75 FR 17307
4-7-234	Nonattainment-Area Dust Permit Program; General Provisions	06/03/2009	04/06/2010	75 FR 17307
4-7-238	Nonattainment Area Site Permits	06/03/2009	04/06/2010	75 FR 17307
4-7-242	Nonattainment Area Block Permits	06/03/2009	04/06/2010	75 FR 17307
4-7-246	Recordkeeping and Records Retention	06/03/2009	04/06/2010	75 FR 17307
4-9-320	Test Methods for Stabilization For Unpaved Roads and Unpaved Parking Lots	06/03/2009	04/06/2010	75 FR 17307
4-9-340	General Provisions	06/03/2009	04/06/2010	75 FR 17307

In conclusion, EPA proposes to concur with the State's decision to omit coarse mass and fine soil from its four-factor reasonable progress analysis for this planning period. In particular, there is a lack of a clear relationship between any particular source category of these pollutants

and observed visibility impairment at the State's Class I areas. Therefore, EPA agrees with the State that it is more urgent to focus controls in this planning period on other pollutants. EPA will work with the State and appropriate multi-jurisdictional planning organization to better understand the causes of coarse mass and fine soil visibility impairment at Arizona's Class I areas. This additional analysis may indicate that it is necessary to control sources of these pollutants to ensure reasonable progress in future planning periods.

2. Visibility Trends in Arizona's Class I Areas

Arizona provided in its supplemental SIP an analysis of visibility trends at its Class I areas as measured by the IMPROVE monitoring network to indicate that the State is making reasonable progress.³⁶ EPA agrees with Arizona that, in general, visibility appears to be improving across the State. For the most part, however, this improvement does not appear to be significant, given the normal year-to-year variations that one would expect in monitored visibility levels.³⁷ In these year-to-year variations, it is difficult to distinguish whether significant trends are related to changes in source emissions or are from intermittent natural events. EPA agrees that nitrate-driven visibility impairment does appear to decrease moderately statewide, as one would expect when NO_x emissions decline. In particular, there appears to be a significant decrease in nitrate-driven visibility impairment at Saguaro West and Saguaro East,³⁸ the two Class I areas with the longest projected time lines to reach natural visibility background levels. This trend indicates these two areas may achieve greater improvement in visibility than the WRAP's analysis projected. While ADEQ's analysis of visibility trends provides helpful information in support of the State's overall RH planning efforts, this analysis cannot substitute

³⁶ More information on the State's analysis and our assessment of it is in the Supplemental TSD and in the EPA document "EPA Summary and Assessment of ADEQ's Visibility Analysis", May 9, 2013 ("EPA Assessment Document").

³⁷ Supplemental TSD, Tables 12 and 14.

³⁸ Supplemental TSD, Table 14.

for a complete four-factor analysis, as required by 40 CFR 51.308(d)(1)(i)(A) and 51.308(d)(1)(ii). Nonetheless, EPA encourages Arizona to continue to develop and refine this monitoring trends analysis as part of its 5-year progress report required under 40 CFR 51.308(g) and (h).

3. Point Sources of NO_x and Area Sources of NO_x and SO₂

In our original proposal published on December 21, 2012, we proposed to disapprove the State's determination that it was not appropriate to require additional controls on point sources of NO_x or area sources of NO_x and SO₂ in order to ensure reasonable progress. The supplemental information submitted on May 3, 2013, did not provide sufficient additional analysis for us to change our original position. In addition to the analysis of visibility trends based on monitoring data described in IV.B.2, ADEQ performed a four-factor analysis of NO_x emissions from the Phoenix Cement Company (PCC) plant located near Sycamore Canyon Wilderness Area. ADEQ did not perform a four-factor analysis for any other point sources or area source categories as part of its supplemental SIP.

a. Reasonable Progress Analysis of Phoenix Cement Company

The EPA finds that the four-factor analysis of PCC is inadequate to support ADEQ's determination that no additional controls are reasonable for this source. In particular, EPA finds that ADEQ's assessment of the cost of compliance and the potential visibility benefits of control are not supported by the underlying data. With regard to the cost of compliance, the supplement states: "Based in part on estimates provided by the EPA and PCC, which are incorporated in PCC's March 6, 2013 comments, and applicable cost-estimate guidance, ADEQ finds that the cost of installing selective non-catalytic reduction (SNCR) control technology at PCC would be in excess of \$1,700,000 and the cost of operating SNCR at PCC would be in excess of

\$1,200,000 annually.”³⁹ The supplemental SIP contains no explanation or documentation of how ADEQ calculated these costs, but they appear to derive exclusively from PCC’s own calculations contained in Attachment 4 (“Summary of SNCR Costs for PCC”) to PCC’s March 6, 2013, comments to EPA.⁴⁰ In that analysis, PCC estimates that the total capital cost of SNCR would be \$1,744,560 and the total annual cost (including both annualized capital costs and operating costs) would be \$1,287,789. However, this analysis includes certain assumptions which are unsupported and inconsistent with EPA’s Control Cost Manual. In particular, the analysis assumes an equipment lifetime of 10 years, whereas the Control Cost Manual provides for assumed economic lifetime of 20 years for an SNCR system.⁴¹ Given that PCC estimates that the remaining useful life of Kiln 4 is roughly 50 years, the equipment lifetime used for calculating annualized costs should be at least 20 years. ADEQ’s assumption of 10 years has the effect of significantly overstating the annualized cost of SNCR. Furthermore, neither PCC’s analysis nor the supplemental SIP provides any calculation of cost effectiveness (i.e., the cost per ton of emissions removed) of SNCR, which is the recommended metric of cost used for both BART and RP cost analyses.⁴²

The supplemental SIP also states that, “ADEQ has considered the visibility modeling issues incorporated in PCC’s March 6, 2013 comments and concludes that changes to visibility impairment in the Sycamore Canyon Wilderness Area that might be achieved by the installation and operation of SNCR at PCC are not warranted in light of these costs and given the revised

³⁹ Arizona RH SIP Supplement, pages 52-53.

⁴⁰ PCC’s comments including its “Summary of SNCR Costs for PCC” are available in the docket for this action (EPA-R09-OAR-2012-0904).

⁴¹ EPA Air Pollution Control Cost Manual, Sixth Edition, EPA/452/B-02-001, January 2002, Section 4.2, Chapter 1, pages 1-37.

⁴² See e.g., BART Guidelines, 40 CFR part 51, appendix Y, section IV.D.4.b; See, e.g. BART Guidelines, 40 CFR part 51, appendix Y, section IV.D.4.b; Guidance for Setting Reasonable Progress Goals under the Regional Haze Program, July 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1-10 (“Reasonable Progress Guidance”) section 5.1.

reasonable progress demonstration for the Sycamore Canyon Wilderness Area.”⁴³ However, no quantitative assessment of the potential visibility benefits is provided. In addition, the supplemental SIP states that “As demonstrated elsewhere in this SIP, reasonable progress will already be achieved for the Sycamore Canyon Wilderness Area,”⁴⁴ although no specific reference is provided. This statement appears to refer to section 11.5 of the supplemental submittal (“Demonstration of Reasonable Progress Goals for 20% Worst Days”), in which “ADEQ presents reasonable progress towards reaching the previously presented RPGs as interpreted through IMPROVE monitor data.”⁴⁵ However, as previously noted, this analysis of visibility trends cannot substitute for a complete four-factor analysis.

Finally, under the “Time Necessary for Compliance” factor, ADEQ states that “even if additional controls were identified, they would not need to be installed by 2018, because the 5-year requirement at CAA § 169A(g)(4), 42 U.S.C. § 7491(g)(4), applies only to sources subject to BART, which PCC is not, and because reasonable progress will already be achieved for the Sycamore Canyon Wilderness Area significantly in excess of the corresponding URP, as demonstrated elsewhere in this SIP.”⁴⁶ We wish to clarify that, while ADEQ is correct that the five-year requirement for control installation does not apply to non-BART sources, this does not mean that the State may postpone indefinitely reasonable controls for non-BART sources. Rather, if such controls are necessary to ensure reasonable progress for the first planning period, installation is required by 2018, which is the final year in this planning period. If, by contrast, it is not practicable to install controls during the first planning period, one should take this into consideration as part of the four-factor analysis.⁴⁷ We also note that ADEQ’s statement that

⁴³ Arizona RH SIP Supplement, page 53.

⁴⁴ *Id.*

⁴⁵ *Id.* at page 89.

⁴⁶ *Id.* at page 53.

⁴⁷ See EPA’s Reasonable Progress Guidance section 5.2.

“reasonable progress will already be achieved for the Sycamore Canyon Wilderness Area significantly in excess of the corresponding URP, as demonstrated elsewhere in this SIP” appears to be an inadvertent error, since ADEQ’s responsiveness statement indicates that ADEQ has retracted this statement and that Sycamore Canyon does not, in fact, meet the glide path.⁴⁸ In summary, while we appreciate ADEQ’s effort to conduct a four-factor analysis of NO_x at PCC in a short period of time, we find that this analysis is inadequate.

b. Other Elements of Arizona’s Supplemental Reasonable Progress Analysis

With the exception of PCC, ADEQ did not perform a four-factor analysis for any other point source or area source category as part of its supplemental SIP. In particular, the SIP still contains no four-factor analysis for external combustion boilers, internal combustion engines or combustion turbines, despite the fact that these source categories are projected to comprise the vast majority of the State’s NO_x emissions from point source in 2018.⁴⁹ The supplement does include an initial “Q/D analysis” (i.e., a calculation of annual NO_x emissions (Q) in tons per year divided by distance to the closest Class I area (D) in kilometers) for major NO_x sources in the State, as well as an analysis of ammonium nitrate trends at the relevant Class I areas.⁵⁰ However, given that the State has elected to focus on NO_x emissions from point and area sources for this planning period, we find it is not reasonable for the State to exclude the majority of these emissions from a four-factor analysis based solely on monitoring trends.

c. Conclusions regarding Point Sources of NO_x and Area Sources of NO_x and SO₂

Based on the foregoing assessment, we therefore are proposing to disapprove ADEQ’s determination that no additional controls for point sources of NO_x and area sources of NO_x and SO₂ are reasonable. It should be noted that EPA is not proposing to find that such additional

⁴⁸ Arizona RH SIP Supplement, Enclosure 3, Appendix E, Responsiveness Summary at page 3.

⁴⁹ See e.g., Table 11.2 of the Arizona RH SIP Supplement.

⁵⁰ See Arizona RH SIP Supplement Section 11.5.2 (Ammonium Nitrate Q/D Analysis).

controls are in fact reasonable. Rather, we find that further analysis is needed to determine whether such controls are reasonable. If we finalize our proposed disapproval of ADEQ's determination in this regard, we would perform this analysis as part of our development of a proposed partial Regional Haze FIP for Arizona.

C. BART Analyses and Determinations

We proposed on December 21, 2012, to approve in part and disapprove in part certain elements of the BART analyses in Arizona's RH SIP submitted on February 28, 2011.⁵¹ In Arizona's supplemental SIP dated May 3, 2013, ADEQ revised aspects of its BART analyses and determinations for four facilities: Miami Smelter, Hayden Smelter, Catalyst Paper and Apache Generating Station.⁵² Based on our assessment of updated information, we now propose to approve a revised set of BART-eligible units for the Miami and Hayden smelters. However, regarding the Miami smelter, we are proposing to disapprove ADEQ's new determination that this source is exempt from a BART analysis for NO_x controls. Regarding the Hayden smelter, we are proposing to disapprove ADEQ's new determination that this source is exempt from a BART analysis for PM₁₀. Despite its determination that the Hayden smelter is exempt from a BART analysis for PM₁₀, ADEQ in fact conducted such an analysis, and we are proposing to approve ADEQ's determination that BART for PM₁₀ is no additional controls. We also propose to approve the State's finding that a BART analysis is not required for Catalyst Paper. Finally, we propose to approve a clarification in the application of the State's BART determination for Apache Unit 1. We have limited the scope of our review to the facilities or elements of a facility's BART analysis that were revised in the supplemental SIP. Please refer to our proposed

⁵¹ The BART sources in today's action are in addition to Apache, Cholla and Coronado that were the focus of our final rule published on December 5, 2012.

⁵² See Arizona RH SIP Supplement Chapter 10, sections 10.4, 10.7 and 10.8; Appendix D, Sections VI (C), VII, IX, XII (B&C), XIII (B, C & D).

rule of December 21, 2012, for further details on our proposed partial approvals and partial disapprovals.

1. FMMI Miami Smelter

a. Identification of BART-eligible Units

ADEQ's Submittal: In its supplemental SIP, ADEQ clarified that the units at the Miami Smelter constituting the BART-eligible source do not include the Remelt/Mold Pouring Vessel. Previously, ADEQ and FMMI had identified the Remelt Vessel as BART-eligible.⁵³ Although the precise construction date of the Remelt Vessel could not be determined, ADEQ referenced certain facility diagrams provided by FMMI indicating that the Remelt Vessel was in operation before 1962,⁵⁴ which is prior to the BART time period for eligibility from 1962 to 1977.

EPA's Assessment: Based on the information contained in the supplemental SIP, we propose to approve ADEQ's finding that the Remelt Vessel unit is not BART-eligible. As a result, the BART-eligible source at the Miami Smelter now consists of the electric furnace, converter numbers 2-5, and the acid plant.⁵⁵ Today's proposal supersedes our previous proposal of December 21, 2012, that identified a different set of emission units as constituting the BART-eligible source.⁵⁶

b. Exemption of NO_x Emissions

ADEQ's Submittal: ADEQ states in its supplemental SIP that "[b]ased on an emission analysis for FMMI, it has been concluded that the potential emissions from the BART-subject units is less than 40 tpy thus rendering the outcome that those units should not be subject to a

⁵³ Arizona RH SIP Supplement, Section 10.7, page 39, and Appendix D, section IV.E, page 27.

⁵⁴ The FMMI documents and diagrams are contained in FMMI's comment letter, which is available in the docket for this action (EPA-R09-OAR-2012-0904).

⁵⁵ As described on page 5 of FMMI's March 6, 2013 comment letter, and page 153 of the February 28, 2011, Arizona Regional Haze SIP.

⁵⁶ Table 11, 77 FR 75721.

BART analysis for NO_x.⁵⁷ FMMI's analysis consists of identifying the maximum annual natural gas usage for each BART-eligible unit during the period of 2007 to 2011, which corresponds to a total emission rate of 31.6 tpy.⁵⁸ Further, ADEQ notes that "in 2010 the converter process gas cooling system was changed from an air-to-gas tubing to water spray cooling. This conversion reduced the number of burn outs and holding fires due to plugging. The net effect is that natural gas usage is significantly lower after the change. ADEQ considers this change to be an inherent physical limitation and therefore a limitation on the potential emissions from these convertors."⁵⁹ As a result of this analysis, ADEQ asserts that the BART-eligible units at FMMI have a potential to emit (PTE) of 31.6 tpy, which is less than the 40 tpy de minimis threshold for NO_x emissions.

EPA's Assessment: EPA disagrees with FMMI's and ADEQ's analysis. The RHR defines PTE as "the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source."⁶⁰ This definition essentially is identical to those used by other programs under the Clean Air Act such as New Source Review under Title I and Operating Permits under Title V.

According to a 1995 memorandum from John Seitz of OAQPS to EPA Air Directors, there are sources for which inherent physical limitations restrict operations and, as a result,

⁵⁷ Arizona RH SIP Supplement, page 53.

⁵⁸ Emission calculations included as an attachment to the Arizona RH SIP Supplement

⁵⁹ See ADEQ Responsiveness Summary, page 6.

⁶⁰ 40 CFR 51.301.

PTE.⁶¹ For the most part, these are simple sources that have a single emission unit responsible for most of the emissions (e.g., grain elevators and spray booths at auto body shops). For larger source types with multiple emission units and complex operations, these limitations can be difficult or problematic to identify. In these cases, EPA strongly recommends that sources obtain legally and practically enforceable limitations on PTE.

Determining PTE from batch processes can be especially problematic and difficult because emissions and operation profiles are not uniform. In 1996, John Seitz issued a memorandum to the EPA Air Directors providing guidance on determining the maximum capacity of batch chemical production operations which may be useful for determining the maximum capacity of other kinds of batch processes.⁶² Three steps are identified in this memorandum. These are identifying potential batch operations, determining the emissions associated with each cycle, and determining worst-case emissions based on the highest emitting combination of production cycles.

FMMI did not identify any inherent physical or operational limitations to determine the PTE of NO_x from the BART-eligible units, and did not identify legally and practically enforceable limitations on the operations or emissions from these units. Historical records of actual emissions, fuel usage, or material throughput are not inherent physical limitations and do not demonstrate the maximum capacity of a source. Because an unestablished capacity reduced by an undefined “significant” amount remains unknown, we find that FMMI’s and ADEQ’s analysis is insufficient to establish that the BART-eligible units have a PTE of less than 40 tpy of NO_x emissions. Therefore, we proposed to disapprove ADEQ’s determination that these units do not require a BART analysis for NO_x.

⁶¹ “Options for Limiting the Potential to Emit of a Stationary Source Under Section 112 and Title V of the Clean Air Act,” January 25, 1995.

⁶² “Clarification of Methodology for Calculating Potential to Emit of Batch Chemical Production Operations,” August 29, 1996.

2. ASARCO Hayden Smelter

a. Identification of BART-eligible units

ADEQ's Submittal: Arizona's original RH SIP submitted on February 28, 2011, identified anode furnaces 1 and 2 and converters 1, 2 and 4 at ASARCO's Hayden Smelter as subject to BART for one or more pollutants. This determination was based on information provided by ASARCO stating that these units were in existence on August 7, 1977, and began operation after August 7, 1962. In the supplemental SIP dated May 3, 2013, ADEQ found that units 1, 3, 4 and 5 of the five converters are BART-eligible.⁶³ ADEQ noted that revised information provided by ASARCO showed that converter 1 was installed in 1966, converter 2 was installed in 1949 or 1950, and converters 3, 4 and 5 were replaced between 1965 and 1975. Based on these installation and replacement dates, all the converters except unit 2 are BART-eligible. ADEQ also confirmed that anode furnaces 1 and 2 are BART-eligible and anode furnace 0, constructed in 2001, is not.

EPA's Assessment: EPA proposes to approve ADEQ's finding that converters 1, 3, 4 and 5 and anode furnaces 1 and 2 constitute the BART-eligible source at the Hayden Smelter. This designation supersedes the proposed approval of the BART-eligible source at the Hayden Smelter contained in our proposal of December 21, 2012, in which we identified a different set of converters and anode furnaces as constituting the BART-eligible source.

b. Exemption of PM₁₀ emissions

ADEQ's Submittal: In its supplemental SIP, ADEQ references comments submitted on EPA's proposed rulemaking that states "stationary source" is defined under the RHR as "any building, structure, facility, or installation which emits or may emit any air pollutant."⁶⁴ In

⁶³ Arizona RH SIP Supplement, Section 10.7, page 39, and Appendix D, section IV.E, page 27.

⁶⁴ Arizona RH SIP Supplement, Appendix D, page 24. ADEQ's March 6, 2013, comment letter is available in the docket for this action (EPA-R09-OAR-2012-0904).

contrast to the new source review rules, the regional haze rule incorporates a dual definition of stationary source. In other words, it contains one definition for “building, structure or facility” and another for “installation.” While “building, structure or facility” is defined as all of the pollutant-emitting activities that belong to the same industrial grouping, the term “installation” is defined as “an identifiable piece of process equipment.” ADEQ asserts that since the Hayden and Miami smelter plants were in operation long before 1962, they cannot be BART-eligible under the “building, structure or facility” prong of the definition and instead, the “installation” prong applies. Noting that each anode furnace, copper converter and shaft furnace is an “identifiable piece of process equipment,” ADEQ asserts that each constitutes a separate “BART-eligible source” and that each therefore has to be evaluated individually against the de minimis emissions threshold for BART of 15 tpy of PM₁₀. Since the average PTE for the process equipment is below 15 tpy, ADEQ believes the BART-eligible sources must be exempt from a BART analysis for PM₁₀.

EPA’s Assessment: As noted by ADEQ, the terms “BART-eligible source” and “stationary source” are defined in the RHR in a manner that can extend to include multiple emission units or pieces of process equipment, or to include only a single emission unit or single piece of process equipment.⁶⁵ However, ADEQ appears to misunderstand how this dual definition applies in the context of identifying BART-eligible sources. The BART Guidelines and the preamble to the RHR discuss at length the meaning of “stationary source” and how to identify the composition of the “BART-eligible source” within the fence line of particular

⁶⁵ When the dual definition was originally promulgated, EPA explained that this it was intended “to accommodate the reconstruction provisions of BART applicability, and to be consistent with the nonattainment [new source review] regulations (45 FR 52676, August 7, 1980)”. Although this dual definition was later removed from the NSR regulations, 46 FR 50766, 50771, 40 CFR 51.165(a)(1)(ii) it was retained for purposes of the RAVI (and later, the Regional Haze) regulations, presumably in order to continue “to accommodate the reconstruction provisions of BART applicability,” that is, to ensure that, when a single unit at source was reconstructed during the BART window, it would become BART eligible, even if the rest of the facility remained ineligible.

facility.⁶⁶ Although the preamble and the Guidelines are not binding with respect to copper smelters, they provide important guidance on how to apply the requirements of the RHR, including the generally applicable definition of “stationary source.”⁶⁷ In particular, the Guidelines explain that “For emission units within the ‘contiguous or adjacent’ boundary and under common control, you must group emission units that are within the same industrial grouping (that is, associated with the same 2-digit SIC code) in order to define the stationary source.”⁶⁸ Thus, the Guidelines suggest that the only circumstance under which there could be more than one “stationary source” at a single facility is if the facility includes BART-eligible units categorized under different 2-digit SIC codes. This circumstance does not appear to apply to either ASARCO Hayden or FMMI Miami. Therefore, we do not agree with ADEQ’s assertion that each unit at the smelters constitutes a separate source. We also note that, if each unit were in fact a separate source, a separate five-factor analysis for each unit would be required. ADEQ has not performed separate analyses for each subject-to-BART unit. Moreover, we note that the preamble to the RHR specifically explains that:

The de minimis levels [set forth in 51.308(e)(1)(ii)(C)] discussed today apply on a plant-wide basis. Applying de minimis levels on a unit by unit basis as suggested by certain commenters could exempt hundreds of tons of emissions of a visibility impairing pollutant from BART analysis.⁶⁹

This language indicates that aggregation from the unit-level to a broader “plant-wide basis” is required when determining if de minimis levels apply. Therefore, a subject-to-BART source can

⁶⁶ See 40 CFR part 51, appendix Y, section II.A.3; 70 FR 39104, 39115-17.

⁶⁷ See e.g., 70 FR 39104, 39108 (July 6, 2005) (“In response to State concerns about equitable application of the BART requirement to source owners with similar sources in different States, we do encourage States to follow the guidelines for all source categories but are not requiring States to do so. States should view the guidelines as helpful guidance for these other categories.”)

⁶⁸ See 40 CFR part 51, appendix Y, section II.A.3 (“How do I identify whether a plant has more than one “stationary source?””)

⁶⁹ 70 FR 39117.

only be exempted from a BART analysis for PM₁₀ where the total PM₁₀ emissions from all BART-eligible units at the plant are less than 15 tpy. As a result, we are proposing to disapprove ADEQ's finding that the ASARCO Hayden Smelter is exempt from a BART analysis for PM₁₀.

c. BART Determination for PM₁₀

ADEQ's Submittal: In its supplemental SIP, ADEQ provided a BART analysis of PM₁₀ that is based on updated emission calculations and new CALPUFF visibility modeling. Elements of this analysis are based upon an updated BART analysis submitted by ASARCO to ADEQ on March 20, 2013.⁷⁰ For the converters, the revised baseline emission estimates of PM₁₀ are based primarily on the results of the stack tests performed during the 2001 to 2003 baseline period, as summarized in Table 5.⁷¹ For anode furnace emissions, which are fugitive in nature, baseline emission estimates of PM₁₀ are based on a historical fugitive emission study.⁷²

TABLE 5—ASARCO HAYDEN BASELINE PM₁₀ EMISSIONS

Unit	Exhaust Stack	Acid Plant Exhaust Emissions		Converter Fraction	PM ₁₀ Emissions	
		(lb/hr)	(g/s)		(lb/hr)	(g/s)
Converters 1, 3, 4, 5	Primary hooding ¹	9.34	1.18	0.20	1.91	0.24
	Secondary hooding	--	--	--	8.02	1.01
	Fugitives	--	--	--	7.23	0.91
Anode Furnaces 1, 2 ²	Fugitives	--	--	--	18.33	2.31

¹ Based on test results from the acid plant exhaust, which receives exhaust from the converter primary hooding as well from the flash furnace. In order to apportion the performance test results between the converters and the flash furnace, an 80/20 ratio developed from AP-42 emission factors was used. See AP-42 (10/86), Table 12.3-3

² Based on historical fugitive emissions study. PM₁₀ emissions from the study were scaled upwards based on the concentrate use at the time of the study and the highest month of concentrate use from 2001-03

⁷⁰ See "Asarco Hayden BART submittal 2013-03-20.pdf" included as an attachment to the Arizona RH SIP Supplement (May 3, 2013).

⁷¹ Relevant excerpts from the November 4, 2002, performance tests are included as attachments to the Arizona RH SIP Supplement (May 3, 2013). Emissions calculations based on this test are also included on page 6 in Asarco's March 6, 2013 comment letter to EPA, which is available in the docket for this action (EPA-R09-OAR-2012-0904).

⁷² Relevant excerpts from the fugitive emission study "Final Report, Fugitive SO₂ Emission Study, Asarco Ray Complex, Hayden, Arizona" prepared by TRC North American Weather Consultants, conducted from October 1994 through May 1995, are included as attachments to the Arizona RH SIP Supplement (May 3, 2013).

ADEQ identified the following existing particulate control devices for each of the BART-eligible units/exhaust stacks listed in Table 5:

- Converter primary hooding: routed to a combination of cyclones, wet scrubbers, wet gas cleaning, and acid plant;
- Converter secondary hooding: baghouse;
- Converter fugitives: no controls; and
- Anode furnaces: no controls (during 2001-2003 baseline period).

In addition, the following control options were considered for each of the BART-eligible units/exhaust stacks:

- Converter primary hooding: no further controls considered; the current configuration represents the most stringent set of particulate controls;
- Converter secondary hooding: no further controls considered; a baghouse is considered the most stringent particulate control;
- Converter fugitives: baghouse, wet scrubber; and
- Anode furnaces: baghouse, wet scrubber.

ASARCO also performed updated CALPUFF visibility modeling using the revised PM₁₀ emission rates summarized in Table 5.⁷³ In order to be consistent with the previous subject-to-BART modeling performed by the WRAP, the updated CALPUFF modeling was performed using the same procedures and approach outlined in the WRAP RMC's CALPUFF BART Modeling Protocol dated August 15, 2006. The results of this updated visibility modeling are summarized in Table 6.

⁷³ The results of this visibility modeling are contained in an attachment to ASARCO's March 6, 2013, comment letter, which was as attachment to the revised Arizona Regional Haze SIP.

TABLE 6—ASARCO HAYDEN VISIBILITY IMPACT OF PM₁₀

Class I Area		State	Min Distance from Facility (km)	98th Percentile Impact (deciview)		
Abbr	Name			2001	2002	2003
chir	Chiricahua NM	AZ	169	0.01	0.01	0.01
gali	Galiuro Wilderness	AZ	47	0.04	0.03	0.04
gila	Gila Wilderness	NM	186	0.00	0.00	0.00
maza	Mazatzal Wilderness	AZ	121	0.01	0.01	0.01
moba	Mount Baldy Wilderness	AZ	151	0.00	0.00	0.00
pefo	Petrified Forest NP	AZ	215	0.00	0.00	0.00
pimo	Pine Mountain Wilderness	AZ	167	0.00	0.00	0.00
sagu	Saguaro NP	AZ	86	0.01	0.01	0.01
sian	Sierra Ancha Wilderness	AZ	84	0.01	0.01	0.01
supe	Superstition Wilderness	AZ	49	0.04	0.03	0.03
syca	Sycamore Canyon Wilderness	AZ	239	0.00	0.00	0.00

For the converter primary and secondary hooding, ADEQ indicated that the existing controls represent the most stringent level of control, and that no further particulate controls are required as BART. For the converter fugitives and anode furnace emissions (which are fugitive in nature) ADEQ determined that no additional particulate controls are required as BART. ADEQ's determination is based primarily on cost of controls and anticipated visibility improvement. Citing a maximum visibility improvement at a single Class I area of 0.04 dv, ADEQ stated that the benefits of control are outweighed by the costs of control and, in the case of wet scrubbers, the adverse environmental effects of water consumption and sludge management.

EPA's Assessment: We now propose to approve ADEQ's determination that BART for PM₁₀ at the Hayden smelter is no additional controls, based upon the small amount of anticipated visibility improvement from additional particulate controls. The approval of this BART determination should not be construed to represent an acceptance of the entirety of the

analysis supporting the determination. For example, the supporting calculations for control costs were not included, which did not allow us to perform a detailed review. In addition, we note that the CALPUFF modeling to support the BART determination was not performed using the current regulatory-approved version of CALPUFF.

As a result, EPA performed CALPUFF modeling to check ADEQ's PM₁₀ conclusion. EPA used the regulatory version of the model, a version of the WRAP-developed meteorological inputs that incorporates upper air data, and the revised IMPROVE equation. As shown in Table 7, which includes all Class I areas within 300 kilometers of the Hayden Smelter, the 98th percentile deciview results confirm ADEQ's conclusion that PM₁₀ visibility impacts are so small that additional controls are not warranted for BART.

TABLE 7—EPA MODELING OF ASARCO HAYDEN PM₁₀ VISIBILITY IMPACT⁷⁴

Class I Area	98th Percentile Impact (deciview)		
	2001	2002	2003
Chiricahua National Monument	0.02	0.02	0.02
Chiricahua Wilderness	0.02	0.02	0.02
Galiuro Wilderness	0.13	0.11	0.12
Gila Wilderness	0.01	0.01	0.01
Mazatzal Wilderness	0.02	0.01	0.02
Mount Baldy Wilderness	0.01	0.01	0.01
Petrified Forest National Park	0.01	0.01	0.01
Pine Mountain Wilderness	0.01	0.01	0.01
Saguaro National Park	0.04	0.03	0.04
San Pedro Parks Wilderness	0.00	0.00	0.00
Sierra Ancha Wilderness	0.02	0.02	0.02
Superstition Wilderness	0.09	0.07	0.08
Sycamore Canyon Wilderness	0.01	0.01	0.01

3. Catalyst Paper (Snowflake Mill)

ADEQ's Submittal: Previously, the Arizona RH SIP included BART determinations for NO_x and SO₂ at Catalyst Paper (Snowflake Mill). In the May 3, 2013 Supplement, ADEQ

⁷⁴ Spreadsheet (Hayden_Visibility_Impacts.xlsx) of full modeling results is available in the docket (EPA-R09-OAR-2012-0904).

revised sections 10.4 (“Subject-to-BART Determination”) and 10.8 (“Arizona Sources that Required a BART Analysis”), as well as various sections of Appendix D, to state this facility is permanently closed and that a BART analysis is not being conducted for the facility. As part of its comments on our December 2, 2012 proposal, ADEQ submitted two letters regarding closure of the Snowflake Mill: a letter from the site manager seeking termination of the facility’s operating permit and a letter from the ADEQ Air Division Director terminating the permit.⁷⁵

EPA’s Assessment: Pursuant to long-standing EPA policy, “reactivation of a permanently shutdown facility will be treated as operation of a new source for purposes of PSD review.”⁷⁶ Consistent with this policy, ADEQ’s supplemental RH SIP revision affirms that reactivation of the Snowflake Mill will be subject to new source review.⁷⁷ Given that the mill’s operating permit has been terminated, that both the mill’s manager and ADEQ view the plant’s closure as permanent and that ADEQ has stated that reactivation of the plant would trigger new source review, we agree that no BART analysis is necessary for this source. Therefore, we propose to approve ADEQ’s decision not to include such an analysis in the SIP.

4. Arizona Electric Power Cooperative – Apache Generating Station

ADEQ’s Submittal: The original SIP submittal dated February 28, 2011, included a BART limit for NO_x emissions from Apache Unit 1 of 0.056 lb/MMBtu, which we approved in a final rule on December 5, 2012. Apache Unit 1 consists of a simple cycle turbine (GT1) and a boiler (steam turbine or ST1), each with a separate stack, that have the ability to operate separately or together in a combined cycle mode. In the supplemental SIP, ADEQ clarified that

⁷⁵ Letter from John Groothuizen, Site Manager at the Catalyst Paper Snowflake to Eric Massey, Director Air Quality Division, ADEQ, Re: Catalyst Paper (Snowflake) Inc Facility Closure, Title V Permit No. 46898 Termination (December 21, 2012); Letter from Eric Massey, Director Air Quality Division, ADEQ to John Groothuizen, Site Manager at the Catalyst Paper Snowflake, Re: Termination of Air Quality Control Permit No. 46898, Snowflake Paper Mill (Jan. 24, 2013).

⁷⁶ In re Monroe Electric Generating (Petition No. 6-99-2), EPA Order Partially Granting and Partially Denying Petition for Objection to Permit at 8 (June 11, 1999).

⁷⁷ Arizona RH SIP Supplement, Appendix D, page 41.

the NO_x BART limit for Apache Unit 1 will apply when ST1 operates alone or when ST1 and GT1 operate together in combined cycle mode. The BART limit does not apply to (a) GT1 during stand-alone simple cycle operation or (b) ST1 and GT1 when ST1 burners are shut off and ST1 is not producing electricity.⁷⁸

EPA's Assessment: Gas turbines are not among the 26 industrial source categories for BART included in the definition of “existing stationary facility” in the Regional Haze Rule, whereas combined cycle turbines are included.⁷⁹ The supplemental SIP clarifies that emissions from GT1 are not subject to the BART emission limit during instances in which GT1 operates alone, as a simple cycle turbine. We propose to incorporate this clarification into the applicable SIP.

V. EPA's Proposed Action

EPA is proposing to approve in part and disapprove in part Arizona's revised RH SIP submitted on May 3, 2013, which supplements its submittal of February 28, 2011, by addressing some of the elements of EPA's proposed rule published on December 21, 2012. In today's action, we propose to approve Arizona's emissions inventory for 2008, the reasonable progress analysis for coarse mass and fine soils, and certain aspects of the analyses and determinations of BART controls for Miami Smelter, Hayden Smelter, Catalyst Paper and Apache Generating Station. In particular, we are proposing to approve the determination that BART for PM₁₀ at the Hayden Smelter is no additional controls. We also propose to disapprove some elements of the new submittal, and propose some minor corrections and clarifications. We acknowledge the progress ADEQ has made in its BART analysis and reasonable progress analysis, two of the

⁷⁸ Arizona RH SIP Supplement, Appendix D, page 49.

⁷⁹ See 40 CFR 51.301; 40 CFR part 51 appendix Y, section II.A.1. (“combined cycle turbines are . . . considered ‘steam electric plants’ because such facilities incorporate heat recovery steam generators. Simple cycle turbines, in contrast, are not ‘steam electric plants’ because these turbines typically do not generate steam.”).

RHR's major requirements. We look forward to working with ADEQ in the future on its regional haze program. We will address both our proposal of December 21, 2012, and today's proposed action in our final rule due in July 2013.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., because this proposed partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental

jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This proposed rule does not impose any requirements or create impacts on small entities. This proposed partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531- 1538 for State, local, or tribal governments or the private sector.” This action proposes to approve certain preexisting requirements, and to disapprove certain other pre-existing requirements, under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this proposed action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination with Indian Tribal Governments

Subject to the Executive Order 13175 (65 FR 67249, November 9, 2000) EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement. “Policies that have tribal implications” is defined in the Executive Order to include regulations that “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of

power and responsibilities between the Federal Government and Indian tribes.” This action does not have tribal implications. It will not have substantial direct effects on any Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175, because it merely proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. EPA also notes that this action will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

Nonetheless, we note that PCC is owned by the tribal government of the Salt River Pima-Maricopa Indian Community (SRPMIC). Our proposed disapproval of ADEQ’s determination not to require additional controls on this source leaves open the possibility that this source could be regulated in a future regional haze FIP. Therefore, consistent with the *EPA Policy on Consultation and Coordination with Indian Tribes* (May 2, 2011), we have shared our initial analyses with SRPMIC and PCC to ensure that the tribe has an early opportunity to provide feedback on such a potential FIP. In addition EPA Region 9 has offered opportunities for meetings and formal consultation.⁸⁰

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is not an economically significant regulatory action based on health or

⁸⁰ Memo dated May 8, 2013, from Colleen McKaughan regarding EPA Region 9 communications with SRPMIC.

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed partial approval and partial disapproval under section 110 of the Clean Air Act will not in-and-of itself create any new regulations but simply disapproves certain State requirements for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

J. Executive Order 12898: Federal Actions to address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent

practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 et seq.

Dated: May 9, 2013.

Jared Blumenfeld,
Regional Administrator,
Region 9.

[FR Doc. 2013-11976 Filed 05/17/2013 at 8:45 am; Publication
Date: 05/20/2013]